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## Third Committee

**Summary record of the 19th meeting**
Held at Headquarters, New York, on Monday, 19 October 2009, at 3 p.m.

*Chairperson*: Mr. Pérez (Vice-Chairperson) ..... (Peru)

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*In the absence of Mr. Penke, Latvia, Mr. Pérez (Peru), Vice-Chairperson, took the Chair.*

*The meeting was called to order at 3.10 p.m.*

**Agenda item 66: Indigenous issues** (*continued*)

**(a) Indigenous issues** (*continued*) (A/64/338)

**(b) Second International Decade of the World's Indigenous People** (*continued*)

1. **Mr. Gutiérrez** (Peru) said that a range of measures were required in order to ensure that indigenous peoples in Peru had access to education, health, employment and equal opportunities. Mechanisms were in place to promote the comprehensive development and social, political and cultural inclusion of Andean, Amazonian and Afro-Peruvian peoples. Challenges included identity registration; quality of bilingual education; and access to water, sanitation, health services and means of communication. Those issues required both political will and international cooperation.

2. He appreciated the efforts by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples to avoid a bureaucratic approach, which would have limited his role to written correspondence with Governments. Peru had invited the Special Rapporteur to visit Bagua, the site of the deplorable incidents of 5 June 2009, which had cost the lives of 23 police officers and 10 civilians. During his visit from 17 to 19 June, the Special Rapporteur had engaged in extensive and open dialogue with all of the actors. He had rejected the accusations against the Government and ruled out any act of genocide, massacre or enforced disappearance.

3. The delegation of Peru accepted the Special Rapporteur's assessment of the complex issues underlying the violence that had occurred in Bagua. The Government had engaged in dialogue with indigenous peoples both before and after the incidents. The National Coordination Group for the Development of Amazonian Peoples had been established with that end in mind. It consisted of four representatives of the executive branch, the regional governors of Amazonian provinces, and ten representatives of indigenous peoples. The Group was intended to create a climate of trust. Four working groups had been established, which would in turn set up an independent commission to investigate the Bagua incidents, propose solutions regarding the laws questioned by the indigenous peoples and improve consultation mechanisms. In the same way, the Government had created a round table for dialogue with Andean peoples. Peru would continue to take all necessary measures to foster the active participation of indigenous peoples in national life, thereby guaranteeing a solid and inclusive democracy.

4. **Mr. Bhattarai** (Nepal) said that the international community should reaffirm its commitment to the rights of indigenous people, who deserved a better future and a life of dignity. The adoption of the Declaration on the Rights of Indigenous Peoples had been a significant step in that direction, and the United Nations Permanent Forum on Indigenous Issues was playing an important advisory role in that field. Nepal was home to over sixty ethnic groups and indigenous peoples. The Constitution guaranteed the rights and freedoms of traditionally marginalized groups, including women, Dalits, indigenous peoples and the inhabitants of disadvantaged areas. The Constituent Assembly was one of the most inclusive in the world. Almost one third of its members were women, and ethnic minorities were well represented.

5. The Government was introducing legal practices to ensure proportional inclusivity based on the principles of equality and progressive values. Provision had been made for a programme empowering various castes, indigenous peoples, neglected and oppressed groups and other communities excluded from socio-economic development. Policies for social justice and affirmative action had been adopted. Nepal's highly successful natural forestry programme drew on the expert knowledge of indigenous groups.

6. Nepal was an active participant in United Nations initiatives and mechanisms concerning indigenous issues, in particular the Permanent Forum, and had ratified International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Special Rapporteur had visited the country in 2008. Lastly, the delegation of Nepal hoped that the international community would extend valuable technical support and cooperation and stressed the urgent need for concerted action.

7. **Mr. Goledzinowski** (Australia) said that his Government had taken significant steps to build a new relationship with indigenous Australians. In February 2008, the Prime Minister had submitted a motion of

apology to Australia's indigenous peoples, thereby acknowledging the legacy of trauma and grief resulting from past policies. The apology had marked the beginning of a new climate of reconciliation, healing and hope. In April 2009, Australia had announced its support for the Declaration on the Rights of Indigenous Peoples. The Special Rapporteur had recently visited the country.

8. Funding had been allocated to a new Aboriginal and Torres Strait Islander Healing Foundation. There had been an unprecedented level of new investment to close the gap in living standards between indigenous and non-indigenous Australians. Objective benchmarks and targets had been developed. Investments would be aimed, inter alia, at improving the prevention and management of chronic disease, and addressing the housing and other needs of indigenous peoples. Undoing the decades of neglect and the poor implementation of previous investment would require sustained long-term action.

9. Australia was committed to supporting the establishment of a national indigenous representative body. A proposed model had been developed through a consultation process led and driven by indigenous people, and the body would be established by the end of 2009. Recent amendments to the Native Title Act (1993) would facilitate the rapid resolution of native title claims with better outcomes. A recently announced national indigenous languages policy would help to keep indigenous languages alive.

10. Over a period of over 160 years, the remains of indigenous Australians had been collected, usually without consent, and shipped to museums and private collections across the world. Indigenous Australians believed that those ancestral spirits could not rest outside their home country. The Government would take prompt action to repatriate ancestral remains. It was determined to ensure that relations between indigenous and non-indigenous Australians would be based on equality, partnership, good faith and mutual respect.

11. **Ms. Coye-Felson** (Belize), speaking on behalf of the Caribbean Community (CARICOM), welcomed the efforts of the Permanent Forum in ensuring interaction between indigenous peoples and the international community as a whole. She called on all parties to contribute to the midterm assessment report, which would be submitted to the General Assembly at its sixty-fifth session. The member States of the Caribbean Community continued to ensure equitable representation of indigenous peoples in governance and decision making and acknowledged their contribution to national prosperity. However, the global economic crisis jeopardized such initiatives. The link between development and human rights was critical; failure to achieve the Millennium Development Goals would have a disproportionate effect on the most vulnerable populations. She urged continued support for the Trust Fund on Indigenous Issues. Despite current challenges, the CARICOM member States had made contributions to the Fund.

12. The relationship between indigenous peoples and the international community should be strengthened so that the priorities and approaches of international development agencies could evolve. There was a need to raise awareness of the United Nations mechanisms addressing indigenous issues. All international stakeholders should be encouraged to form genuine partnerships, for the promotion of development, human rights and peace.

13. Indigenous women and girls still suffered from multiple forms of discrimination. They were often particularly vulnerable to extreme poverty, trafficking, illiteracy, lack of access to land, non-existent or poor health care, and public and private violence. The international community should continue to raise awareness of their situation while working to promote social transformation and rural and economic development. The CARICOM countries would continue to uphold the rights of indigenous peoples and bridge the implementation gap in enabling them to manage their own affairs. They called on the specialized agencies of the United Nations to mobilize financial and technical assistance towards those aims.

14. **Ms. Taracena Secaira** (Guatemala) said that the report of the Special Rapporteur (A/64/338) stated that for the Declaration on the Rights of Indigenous Peoples to be fully operative, States must pursue a range of affirmative, special measures that engaged the various institutions of law-making and public administration. As the report rightly pointed out, that process required the full political engagement and financial commitment of States, and was not free from obstacles and difficulties of all sorts. Her Government had established an office for indigenous rights within the Ministry of Foreign Affairs. In order to develop mechanisms for the implementation of international

instruments on indigenous rights, the Ministry had created five working groups, one of which addressed access to justice for indigenous peoples.

15. Her Government had raised awareness of international instruments and their implications for people of African descent, especially the Garifuna people. A variety of cultural and academic events had been held on 9 August 2009, which was both the national and International Day of the World's Indigenous People. An international seminar on human rights had been organized by the Department of Human Rights under the Ministry, and delegates from Colombia, Guatemala and Mexico had taken part. An intensive social cohesion programme, focusing on the poorest and most excluded parts of the country, had led to significant progress in health and education.

16. **Ms. Masaquiza** (Ecuador) said the political and institutional reform launched by her Government had marked several fundamental milestones in promoting recognition of the rights of indigenous peoples. The Constitution now defined Ecuador as a plurinational State and included a chapter on collective rights in accordance with the Declaration and ILO Convention No. 169. Questions concerning prior free and informed consent would be subject to legislative debate. The establishment of institutional representation at the highest level of the State allowed indigenous peoples and nationalities to participate equitably in public policy decisions. The National Development Plan included measures to build capacities and promote social and territorial cohesion while asserting Ecuador's plurinational and intercultural identity. The Social Agenda for Development 2007-2010 included policies and budgets for protecting and promoting the rights of indigenous and Afro-Ecuadorian peoples and nationalities.

17. At the same time, her Government recognized that the unequal situation of indigenous peoples could not be understood in isolation from the country's historical and structural context. Rather, it stemmed from the concentration of economic and political power in the hands of the dominant social classes. Dialogue between the Government and the indigenous movement had led to ten agreements, which would ensure respect for the Constitution, international instruments, indigenous organizations and the national Government. Her Government had invited the Special Rapporteur to visit the country and looked forward to the outcome of the midterm assessment of the second International Decade of the World's Indigenous People.

18. **Ms. Elisaia** (Samoa) said that her Government had decided to formally endorse the United Nations Declaration on the Rights of Indigenous Peoples. Formal notification of that decision was being transmitted to the Organization that very day. Her delegation had abstained from the vote on the Declaration two years earlier. Given the important progress towards the realization of indigenous peoples' rights worldwide, including in Samoa's region, positive change in the attitudes of some States and growing acceptance of the Declaration as a complement to existing human rights instruments, her Government had decided to join the global community in supporting the Declaration.

19. While commendable gains had been made in promoting the rights of indigenous peoples, many challenges remained. All stakeholders that shared a genuine interest in the welfare of indigenous peoples must enter into much more collaborative partnerships in order to implement the Declaration and truly benefit indigenous people worldwide. Her Government's decision to endorse the Declaration was in keeping with its commitment to human rights at both the domestic and international levels.

20. **Mr. Adouki** (Congo) said that his Government was making every effort to meet the needs of its indigenous populations, who had long been discriminated against. National and regional awareness-raising campaigns had been launched, and the Congo celebrated the International Day of the World's Indigenous People every year. Beginning in the current year, celebrations would rotate among the departments having indigenous communities. In cooperation with the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund (UNICEF), indigenous peoples' days had been organized in Parliament to involve its members in protecting indigenous rights.

21. His Government had recently organized an international forum of indigenous forest peoples in central Africa, following which it had adopted a plan of action 2009-2013 to improve the quality of life of its indigenous peoples. A census of those peoples was under way, and birth certificates were being issued to indigenous children. Considerable efforts had been made to encourage indigenous children to attend

school; 12,000 had been enrolled between 2005 and 2009.

22. The Congo could soon have a comprehensive legal framework for the promotion and protection of the rights of its indigenous peoples. A bill had been drafted that would guarantee indigenous peoples' civil, political and cultural rights and ensure their development in a healthy environment. They would have the right to own land and occupy or use their traditional lands and accompanying resources to meet their daily needs, for work and for traditional medicines. The bill would also establish a special fund for defending the basic rights of the indigenous peoples. The draft text was currently being reviewed by the Supreme Court to ensure that its provisions were in accordance with the Constitution and might be adopted by Parliament at its March 2010 session.

23. **Ms. Gastaldo** (International Labour Organization (ILO)) said that combating discrimination based on indigenous or tribal identity was a central aspect of ILO efforts to eliminate marginalization. ILO had considerably scaled up its work on indigenous issues and further strengthened links between its supervisory bodies and technical cooperation programmes with a view to increasing its capacity to mainstream indigenous issues and support its constituents in their efforts to promote indigenous rights. Experience gained in the implementation of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries had underscored the need for regular consultation and participation in bringing about an inclusive national development process that respected indigenous peoples' rights and aspirations.

24. Comprehensive documentation of relevant legal provisions was an essential tool for promoting the rights of indigenous peoples. In cooperation with the African Commission on Human and Peoples' Rights working group on indigenous populations/communities and the University of Pretoria Centre for Human Rights, ILO had documented the situation of legal protection for indigenous peoples in Africa: 25 country reports had been drawn up, and key findings and resolutions had been compiled in a report adopted by the African Commission in May 2009. With regard to Latin America, ILO had published a casebook on the implementation of Convention No. 169 by national courts and the Inter-American court system.

25. ILO developed interregional training and advocacy material and had, for example, recently published a manual entitled "Indigenous and Peoples' Rights in Practice: A Guide to ILO Convention No. 169", a catalogue of ideas and best practices for indigenous organizations and Governments. An online training website was available at www.pro169.org, which contained a link for ordering a training toolbox which provided material for a one-week course on indigenous peoples' rights and development. Lastly, she noted that 2009 marked the twentieth anniversary of ILO Convention No. 169 and hoped that the current momentum for the protection of indigenous rights would encourage States to ratify and implement the Convention.

26. **Mr. Sankurathripati** (World Intellectual Property Organization (WIPO)) said that, pursuant to its mandate, WIPO was concerned with intellectual property issues relating to the unauthorized use, misuse, or abuse of indigenous and traditional peoples' traditional knowledge, cultural expressions and genetic resources, which were critical elements in the current knowledge-based society. Its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore dealt with indigenous issues and collaborated closely with the Permanent Forum on Indigenous Issues. WIPO would submit a report to the ninth session of the Forum in April 2010.

27. The WIPO General Assembly that had concluded on 1 October 2009 had renewed the mandate of the Intergovernmental Committee for a further two years with a clear mandate to undertake negotiations on a text for one or more international instruments relating to the protection of indigenous and traditional communities' genetic resources, traditional knowledge and cultural expressions. A working group for that purpose would be created using a draft text prepared by the WIPO secretariat as a starting point. In addition, the Assembly had decided to establish a voluntary fund for facilitating the participation of indigenous representatives from the world over in the work of the Intergovernmental Committee.

28. **Ms. Álvarez** (United Nations Development Fund for Women (UNIFEM)) said that indigenous women experienced both gender and ethnically motivated discrimination. Their situation was frequently aggravated by poverty, marginalization and lack of access to education and health services. Over the past

two decades, however, indigenous women had mobilized to address the needs of their communities and ensure that indigenous issues were visible on the international agenda. They participated actively in international and regional forums to underscore the need to protect their human, cultural and intellectual property rights and ensure recognition of the contribution that indigenous knowledge had and could make to human development, for example, with regard to resource management and environmental sustainability, which were particularly important in the context of the food crisis and climate change.

29. In accordance with its strategic plan 2008-2011, UNIFEM was working to improve observance of the rights of economically and socially excluded women, including indigenous women, and supported efforts by indigenous women to convince countries and communities to value indigenous culture. In the Andean region, for example, it was working to increase women's political participation and access to both formal and ancestral justice systems. For indigenous women that implied encouraging respect for their rights among traditional authorities and supporting their access to counsellors who could follow them through the justice process and also offer advice to the authorities.

30. During the constituent assembly process in Ecuador, UNIFEM had helped indigenous women's groups put forward recommendations on guaranteeing their right to access to justice, including participation in decisions by ancestral justice institutions. At the local level, the Fund had supported reform of the ancestral justice systems in 43 Quichua communities in Imbabura Province aimed at strengthening women's right to justice in cases of gender-based discrimination and economic discrimination. In Bolivia, indigenous women had succeeded in incorporating provisions on their rights in the new Constitution. UNIFEM had also helped excluded women's organizations in Cochabamba to engage in participatory forums with local government, insisting upon the protections guaranteed under the new Constitution.

31. In the Caribbean, UNIFEM had supported studies on the status of indigenous women and the importance of land for indigenous peoples that had led to an agreement to support participation by indigenous women in national development strategies, recognize land rights and facilitate access by indigenous women to credit and productive resources. In Africa, in cooperation with the World Bank in an initiative to improve women's economic security, the Fund was helping Masai women access broader markets for their traditional beadwork.

32. UNIFEM and the International Fund for Agricultural Development (IFAD) had recently completed a study on the gender-specific effects of climate change and environmental degradation on indigenous women, highlighting local adaptation strategies. In the Asia-Pacific region, UNIFEM partnered with IFAD to support indigenous women's resource centres, including one in China and two in India, providing gender-awareness training and capacity-building programmes for women and men.

33. **Ms. Filip** (Inter-Parliamentary Union (IPU)) said that a democratic parliament should reflect the social diversity of the population, otherwise some groups would feel disadvantaged or excluded, which could have consequences for the political system and society. Inclusive parliaments strengthened democracy, promoted integration and prevented conflict. She wondered whether parliaments were doing enough to promote the human rights of indigenous peoples and noted that in a recent international survey commissioned by IPU only between 4 per cent and 33 per cent of respondents in four countries with significant indigenous populations felt that indigenous peoples were fairly represented.

34. In order to better understand that issue, the Union, in cooperation with the United Nations Development Programme (UNDP), had undertaken a project to increase minority and indigenous representation. The project's first priority was to get a clear picture of the number of parliamentarians who identified themselves as indigenous. The number of indigenous parliamentarians often bore little relation to the size of the indigenous population, even in countries with large indigenous populations. The project therefore also aimed to gain a better understanding of the mechanisms by which indigenous representatives entered parliament, the obstacles that they faced and the role of political parties in that regard.

35. With the growth in democracy, it was increasingly important to ensure full access to public life by and appropriate representation for indigenous populations; that was best achieved through majority sensitivity and minority inclusion. It was also particularly important that indigenous parliamentarians

should be legitimate representatives of their communities, especially if they owed their seat to a special provision for indigenous representation. Little was more unrepresentative than an indigenous parliamentarian who was simply window dressing for the majority.

36. The project with UNDP also sought to determine the extent to which indigenous parliamentarians exerted real influence in parliament and ensured protection of indigenous rights. There was, for example, a correlation between the number of indigenous parliamentarians and the effective implementation of indigenous rights. Furthermore, while there was a correlation between indigenous representation and States' adherence to international standards on human rights, it was generally indigenous parliamentarians themselves who were the leading advocates for their communities' rights.

37. Lastly, the project aimed to study parliaments' efforts to include indigenous representatives and issues in their work. That was not limited to specific laws affecting the indigenous population but also related to the broader legal structure in such key areas as health, education and employment. She noted in that regard that a number of parliaments, for example the parliament of Peru, had created specialized committees to address issues from an indigenous perspective.

38. Parliaments and legal frameworks were however only one element in the realization of indigenous rights. The linkages between parliaments and indigenous peoples' independent institutions must likewise be strengthened. Furthermore, in addition to adopting legislation, parliaments, in cooperation with indigenous and civil society organizations, must ensure that those laws were correctly implemented in order to improve the lives of indigenous peoples.

39. **The Chairperson** said that the Committee had thus concluded its general discussion of agenda item 66.

*The meeting rose at 4.25 p.m.*